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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,412	06/27/2001	Werner Hofmann	A34357 07130S.0167	2801
31625	7590	06/06/2005	EXAMINER	
BAKER BOTTS L.L.P. PATENT DEPARTMENT 98 SAN JACINTO BLVD., SUITE 1500 AUSTIN, TX 78701-4039			HEITBRINK, JILL LYNNE	
		ART UNIT	PAPER NUMBER	
		1732		

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/892,412	HOFMANN, WERNER	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jill L. Heitbrink	1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 11 March 2005.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 and 18-30 is/are pending in the application.
- 4a) Of the above claim(s) 4,5,9,12,13,18,22-25 and 30 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3,6-8,10,11,19-21 and 26-29 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>3/2005, 6/2001</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

***Election/Restrictions***

1. Claims 4, 5, 9, 12, 13, 18 and 22-25 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on Nov. 6, 2003. Applicant elected species A which is control of plastic injection molding machine speed and pressure, paragraph [0006].
2. Newly submitted claim 30 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claim 30 is a combination as claimed and does not require the particulars of the subcombination as claimed because it does not require the correcting of the intermediate variable by a second variable. The subcombination has separate utility such as controlling any type of drive. Additionally, new claim 30 is unclear as to whether an apparatus or process is being claimed.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 4, 5, 9, 12, 13, 18, 22-25 and 30 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Claim***

3. Claims 1, 6, 7, 8, 19-21 and 29 have been amended in line one to be directed to a "system". These claims are being examined as being apparatus claims. Claims 2 and 3 have not been similarly amended. Applicant should amend the claims so that the dependent claims are clearly referring to the same apparatus/system.

4. The claims are not clearly defined in relationship to the disclosure. The examiner is using the following for support of the claims, however, the terms are not consistent between the claims:

Control unit--Fig. 2

First determination unit --FB1

First variable--x

Second variable--Pact

First setpoint-- upper fed line to FB6 most likely "v"

Second determination unit-- FB4?

First internal variable--output from FB2, not clear for claims 19-21

Intermediate setpoint--upper output line from FB4, not clear for claims 19-21

Second setpoint--output from AS or output from FB5?

Machine control unit--FB6

Third variable--y, z

First unit--FB2?

Select unit--FB4?

Subtraction unit--AS

Function unit--FB5

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claim 19 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 19, lines 3-8 the second setpoint determination unit comprising two units, "a first unit" and "a select unit", does not have support in the original specification. FB4 performs the functions defined, but the structure is not defined. Additionally, FB2 is not part of FB4.

7. Claim 29 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 29, lines 2-4 "a first unit for generating said first intermediate pressure variable and a second unit for generating a second intermediate pressure variable from said time variable" does not have support in the original specification.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-3, 6-8, 10, 11, 19-21 and 26-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. Claim 7 "the first pressure profile" does not have antecedent basis.

11. Claim 26 is confusing since it is dependent from claim 10 which has a step of "correcting said intermediate setpoint with a second variable to generate a second setpoint" and claim 26 has a step of "subtracting said second variable from said selected first or second internal variable to generate said second setpoint". Applicant should clearly define what is claimed and where these terms have support in the original specification.

12. Claims 3 and 10 are each independent claims, however, the meaning of intermediate and internal is confusing and not clearly defined since the first variable is used to derive "a first internal variable" in claims 10 and "a first intermediate pressure variable" in claim 3.

13. Claims 26 and 27 are unclear as to from which unit the second setpoint is generated.

14. Claim 27 "said subtracted variable" does not have antecedent basis.

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15. Claim 28 recites the limitation "said function unit" in line 1. There is insufficient antecedent basis for this limitation in the claim.

16. Claim 28 "is controlled by a parameter" is incorrect as to the operation of the function unit FB5 which receives a parameter, see page 12, lines 19-21 of the specification.

17. Claims 1 and 19 are unclear as to what are the second setpoint determination unit and the first internal variable. Claim 19 states "the second determination unit comprises a first unit to generate said first internal variable". However, this claim is dependent from claim 1, which states "a second determination unit to receive a first internal variable". The second determination unit should be clearly related to what is disclosed in the specification the second determination unit is not capable of receiving and generating the first internal variable. Which variable disclosed in the specification is the first internal variable and which unit is the second setpoint determination unit?

***Claim Rejections - 35 USC § 102***

18. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

19. Claims 1, 2, 6, 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Hiraoka Pat. No. 5,371,450.

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20. Hiraoka discloses an injection molding machine including a drive (servomotor 11) a control unit 30 and detectors for determining at least a first (position from 25) and a second (pressure from 18) variable fed to the control unit. The control unit comprises a first determination unit receiving the first variable  $S_z$  for generating a first setpoint  $S_y$ . A second determination unit receiving a first internal variable injection velocity (col. 11, lines 28-39) derived from the first variable (position and time are used to determine velocity) for generating an intermediate setpoint (the gain is used to adjust the pressure). The intermediate setpoint (output of changeover switch 51) is corrected by the second variable (pressure  $S_p$ ) to generate a second setpoint  $S_q$ . The machine control unit (minimum value selector 30-3) receives the first  $S_y$  and second  $S_q$  set points for generating a machine control parameter  $S_g$ . The drive is used to advance a screw

21. As to claim 19, a third variable such as time is used in Hiraoka to determine velocity. The second determination unit comprises a first unit for generating said first internal variable (variation detecting unit), and a second unit for generating a second internal variable (velocity) from the third variable (time), and a select unit (51) controlled by a threshold (velocity) derived from the first variable for selecting the first or second internal variable for generating the intermediate setpoint. As to claim 20, the position control compensator 30-2 of Hiraoka (col. 6, lines 55-62) is disclosed as subtracting the second variable from the selected first or second internal variable and generating the second setpoint. As to the select unit selecting a first or second parameter set, Hiraoka (col. 11, line 52-col. 12 line 5) discloses a plurality of factors for determining the control gain in correspondence to the molding conditions and the use of an operation mode

setting unit 72 selectively a set in consideration of the molding condition and the control gain being determined from a plurality of control gains.

21. Claims 3, 7, 8 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Hiraoka Pat. No. 5,371,450.

22. Hiraoka disclose an injection molding machine for molding plastic parts comprising a motor 11 driven advancing screw 21 for driving the injection and generating an injection pressure (load cell 23). The machine includes means for detecting and registering the injection pressure (load cell 23) and position (25) of the screw as measured variable during operation of the injection molding machine. The control means generates a first setpoint  $S_y$  from the position variable  $S_z$  by a speed/displacement profile (24-2 and 24-3) and a first intermediate pressure variable (output of 51) from the position variable (used in units 55, 60 and 70) by a pressure profile  $S_r$ , which is changed during different stages of injection (col. 9, lines 42-62). The first intermediate pressure variable is corrected by the pressure variable to generate (within unit 51 and 30-2) a second setpoint  $S_q$ . The first and second setpoints are fed to a machine control unit 30-3 for generating a motor control parameter for the motor. A time variable is used in Hiraoka for determination of velocity and the pressure setting.

23. Claims 10, 11 and 26-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Hiraoka Pat. No. 5,371,450.

24. Hiraoka discloses determining a first setpoint  $S_y$  from the first variable  $S_z$ . An intermediate setpoint (output of 51) is determined from a first internal variable (gain) derived from the first variable  $S_z$  in the operation mode setting unit. The intermediate

setpoint is corrected (within the pressure control compensator 30-2) with a second variable  $S_p$  to generate a second setpoint  $S_q$ . The first setpoint is determined by a speed/displacement profile (generated and subtracted in 24-2 and 24-3). The first internal variable is determined by a pressure/displacement profile  $S_r$  which is changed during different stages of injection (col. 9, lines 42-62). A second internal variable (gain in unit 51) is determined based on time and the pressure profile (units 60 and 70). The threshold is based on velocity which is determined from the first variable. The second variable is subtracted from the selected first or second internal variable to generate the second setpoint within the position control compensator 30-2 see Hiraoka (col. 6, lines 55-62).

***Response to Arguments***

25. Applicant's arguments filed March 11, 2005 have been fully considered but they are not persuasive.
26. Applicant has not overcome the rejection of claim 19 based on 112 first paragraph. Applicant has not provided any indication as to the support of claim 19, lines 3-8 in the specification. Claim 19, lines 3-8 the second determination unit comprising two units, "a first unit" and "a select unit", does not have support in the original specification. FB4 performs the functions defined, but the structure is not defined. Additionally, FB2 is not part of FB4. Additionally, the rejection under 112, second paragraph has not been overcome.

27. Applicant argues that Hiraoka fails to disclose the generation of the claimed intermediate setpoint that is corrected by a second variable to generate a second setpoint which is then utilized with the first setpoint (generated from a first variable) to generate a machine control parameter. As stated in the previous rejection, the intermediate setpoint (output of changeover switch 51) is corrected by the second variable (pressure  $S_p$ ) to generate a second setpoint  $S_q$ , and the machine control unit (minimum value selector 30-3) receives the first  $S_y$  and second  $S_q$  set points for generating a machine control parameter  $S_g$ .

28. Applicant argues that for claims 19 and 20, Hiraoka does not disclose or suggest a system wherein a third variable is considered and utilized to generate a machine control parameter. However, as stated in the rejection as to claim 19, a third variable such as time is used in Hiraoka to determine velocity. The second determination unit comprises a first unit for generating said first internal variable (variation detecting unit), and a second unit for generating a second internal variable (velocity) form the third variable (time), and a select unit (51) controlled by a threshold (velocity) derived from the first variable for selecting the first or second internal variable for generating the intermediate setpoint. As to claim 20, the position control compensator 30-2 of Hiraoka (col. 6, lines 55-62) is disclosed as subtracting the second variable from the selected first or second internal variable and generating the second setpoint.

29. Applicant argues that Hiraoka fails to teach or suggest the subject matter of claims 22-24. However, these claims have been withdrawn as being drawn to a nonelected species.

30. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jill L. Heitbrink whose telephone number is (571) 272-1199. The examiner can normally be reached on Monday-Friday 9 am -2 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jill L. Heitbrink  
Primary Examiner  
Art Unit 1732

jlh